

**ASSEMBLY BILL**

**No. 1804**

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**Introduced by Assembly Member Perea**

February 18, 2014

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An act to add Section 396 to the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 1804, as introduced, Perea. Insurance: notice of lapse.

Existing law requires an insurance policy to specify certain information, including, but not limited to, the parties to the contract, the property or life insured, the risks insured against, the premium, and the coverage period.

This bill would prohibit an individual insurance policy covering real property, personal property, as described, liability, or health, issued or renewed on or after January 1, 2015, from being issued until the applicant has been given the right to designate at least one individual, in addition to the applicant, to receive the notice of lapse, termination, expiration, nonrenewal, or cancellation of the policy for nonpayment of the premium, as provided. The bill would prohibit an insurance policy from lapsing or being terminated for nonpayment of the premium unless the insurer, at least 10 days prior to the effective date of the lapse, termination, expiration, nonrenewal, or cancellation gives notice, as provided, to the insured and to the individual or individuals designated, if any, at the address provided by the insured for these purposes.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 396 is added to the Insurance Code, to read:

396. (a) An individual policy shall not be issued until the applicant has been given the right to designate at least one individual, in addition to the applicant, to receive the notice of lapse, termination, expiration, nonrenewal, or cancellation of a policy for nonpayment of the premium. Upon application for issuance of a policy, the insurer shall provide the applicant with 30 days to do one of the following:

(1) Designate in writing the name, address, and telephone number of at least one individual, in addition to the applicant, who is to receive the notice of lapse, termination, expiration, nonrenewal, or cancellation for nonpayment of the premium.

(2) (A) Provide a written waiver signed and dated by the applicant electing not to designate additional persons to receive the notice of lapse, termination, expiration, nonrenewal, or cancellation for nonpayment of the premium.

(B) The required waiver shall read as follows:

“Protection Against Unintended Lapse, Termination, Expiration, Nonrenewal, or Cancellation.

I understand that I have the right to designate at least one person other than myself to receive the notice of lapse, termination, expiration, nonrenewal, or cancellation of this insurance policy for nonpayment of the premium. I understand that notice will be given within 10 days after a premium is due and unpaid. I elect not to designate any person to receive the notice.

Dated:\_\_\_\_ Signature of Applicant:\_\_\_\_\_”

(3) If after receiving notice from the insurer of the right to designate additional persons to receive the notice of lapse, termination, expiration, nonrenewal, or cancellation for nonpayment of the premium, the applicant fails to take action pursuant to either paragraph (1) or paragraph (2) within 30 days, the insured is deemed to have waived the right to designate those additional persons.

(b) Notwithstanding subparagraph (C) of paragraph (2) of subdivision (a) of Section 791.13 or any other law, the insurer

1 shall retain and utilize as necessary the contact information  
2 provided in the written designation for the lifetime of the policy,  
3 and allow the insured to update the written designation if the  
4 insured so requests.

5 (c) Not less than every two years, the insurer shall notify the  
6 insured in writing of whichever of the following applies:

7 (1) If an insured has previously provided a written designation  
8 pursuant to paragraph (1) of subdivision (a), the right to change  
9 the prior written designation by adding or deleting additional  
10 persons to receive the notice of lapse, termination, expiration,  
11 nonrenewal, or cancellation for nonpayment of the premium.

12 (2) If the insured has previously waived the right to designate  
13 any persons pursuant to paragraph (2) of subdivision (a), to exercise  
14 the right to designate additional persons to receive the notice of  
15 lapse, termination, expiration, nonrenewal, or cancellation for  
16 nonpayment of the premium.

17 (d) When the insured pays the premium for an insurance policy  
18 through a payroll or pension deduction plan, the requirements  
19 contained in subdivision (a) need not be met until 60 days after  
20 the insured is no longer on that deduction payment plan. The  
21 application form for an insurance policy shall clearly indicate the  
22 deduction payment plan selected by the applicant.

23 (e) An insurance policy shall not lapse or be terminated for  
24 nonpayment of the premium unless the insurer, at least 10 days  
25 prior to the effective date of the lapse, termination, expiration,  
26 nonrenewal, or cancellation, gives notice to the insured and to the  
27 individual or individuals designated pursuant to subdivision (a) at  
28 the address provided by the insured for purposes of receiving the  
29 notice of lapse, termination, expiration, nonrenewal, or cancellation  
30 for nonpayment of the premium. Notice shall be given by first-class  
31 United States mail, postage prepaid, within 10 days after the  
32 premium is due and unpaid.

33 (f) This section applies to policies of insurance, other than  
34 workers' compensation insurance, on risks located or resident in  
35 this state that are issued and take effect or which are renewed after  
36 the effective date of this section and insuring any of the following  
37 contingencies:

38 (1) Loss of or damage to real property that is used predominantly  
39 for residential purposes and that consists of not more than four  
40 dwelling units.

- 1     (2) Loss of or damage to personal property in which natural  
2 persons resident in specifically described real property of the kind  
3 described in paragraph (1) have an insurable interest, except  
4 personal property used in the conduct of a commercial or industrial  
5 enterprise.
- 6     (3) Legal liability of a natural person or persons for loss of,  
7 damage to, or injury to, persons or property, but not including  
8 policies primarily insuring risks arising from the conduct of a  
9 commercial or industrial enterprise.
- 10    (4) Disability and health insurance as defined in Section 106.
- 11    (g) This section applies to policies that are issued and take effect  
12 or that are renewed on or after January 1, 2015.